Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of $2,017.52 for date of service 2-1-01.

   b. The request was received on 1-31-02.

II. EXHIBITS

1. Requestor, Exhibit I:

   a. TWCC-60a/b and Letter Requesting Dispute Resolution
   b. UB-92s
   c. EOBs
   d. Reimbursement data
   e. Medical Records
   f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.

2. Respondent, Exhibit II:

   a. TWCC 60 and Response to a Request for Dispute Resolution
   b. UB-92s
   c. EOBs
   d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.

3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 4-4-02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 4-5-02. The response from the insurance carrier was received in the Division on 4-8-02. Based on 133.307 (i) the insurance carrier's response is timely.

4. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 3-28-02:

   "The date of service involved in this dispute was from February 1, 2002, for treatment regarding the above-referenced claimant's work-related injury. The Carrier denied payment with payment exception code 'M' for all items provided in the UB-92, which were Fee Codes with a 'MAR' and treatment codes without a 'MAR'."

2. Respondent: Letter dated 4-8-02:

   "…. is in the process of absorbing the files from the liquidator and we do not have all the files on the system at this time. We would like time to review the file and also review the disputed bill. We anticipate having this done within the next 60 days."

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 2-1-01.

2. The provider billed a total of $6,304.86 on the date of service in dispute.

3. The carrier reimbursed a total of $4,287.34 and its EOB has the denial "M – NO MAR".

4. Total amount remaining in dispute $2,017.52.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, "shall be reimbursed at a fair and reasonable rate…"

Section 413.011 (d) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

The provider has submitted EOBs from various carriers to document what they consider inconsistent application by the carrier of it's own methodology, EOBs from other carrier showing a higher percentage of the billed amount reimbursed, and a reimbursement log of other EOBs. This list of EOBs shows the date of service, the amount billed and reimbursed, percentage of the billed amount reimbursed, and the payer of the bill. The reimbursement rate as a percentage of the billed amount that is shown on this log ranges from a high of 100% to a low of less that 1%.

Regardless of the carrier's application of it's methodology, lack of methodology, or response the burden is on the provider to show that the amount of reimbursement requested is fair and reasonable. The provider's documentation is EOBs or is based on EOBs. However, minimal weight is given to EOBs for documenting fair and reasonable reimbursement. The willingness of some carriers to provide reimbursement at or near the billed amount does not necessarily document that the billed amount is fair and reasonable and does not show how effective medical cost control is achieved, a criteria identified in Sec. 413.011(d) of the Texas Labor Code. Therefore, based on the documentation available for review, the Requestor has not established entitlement to additional reimbursement.

The above Findings and Decision are hereby issued this 7th day of August 2002.

Lesa Lenart, RN
Medical Dispute Resolution Officer
Medical Review Division

LL/ll